

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4651 OF 1992

Sou.Nalini Vasantryao Pawar
Chairman of Sidheshwar Mahila
Sahakari Dudh Vyasaik Sanstha Ltd .. Petitioners.
Vs.
The Assistant Registrar & Ors. .. Respondents.

Mr.V.S.Kapse i/b Mr.Shrimant L.Kapse for the
petitioner.
None present for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 1ST SEPTEMBER, 2005

P.C.:

. The petitioners, in the present writ petition, have challenged the orders passed by respondent nos.1 to 3 in the proceedings arising from the registration application filed by the petitioners-society. In the earlier round of litigation also the petitioners had approached this court in Petition No.3854 of 1991 which was disposed of by the following order:

"Rule made returnable forthwith.
Heard all the parties.
Impugned order at Exh."L" dated 26th August 1991 is confirmed with further direction to Respondent No.2 to consider the applications filed by the Petitioner Society u/s.4 and u/s.9 within one month from today after giving hearing to all the concerned parties.
During the pendency of the decision of the application u/s.4 the Petitioner is allowed to collect the milk from their members.

With the aforesaid observations the

Writ Petition is finally disposed of."

2. In pursuance of this order, respondent no.1 confirmed the registration granted earlier holding that the High Court has confirmed the same. A perusal of the aforesaid order clearly indicates that respondent no.1 was directed to consider the application filed by the petitioners-society under section 4 and 9 of the Maharashtra Co-operative Societies Act, 1960 (for short "the Act") afresh. The Assistant Registrar was expected to consider the application of the petitioners-society afresh after giving an opportunity of being heard to all concerned parties which he did not do and simply held that the High Court has confirmed the registration, which does not seem to be correct. Being aggrieved by the order dated 19.2.1992 respondent no.5 preferred appeal before respondent no.2 which came to be allowed by order dated 22.7.1992 and the said order dated 19.2.1992 passed by respondent no.1 was set aside. The petitioners carried matter further in revision before respondent no.3, who upheld the order passed by respondent no.2 dated 22.7.1992 by its order dated 31.10.1992. Against this order the present writ petition was preferred and on 30.11.1992 rule was issued and interim relief in terms of prayer clause

(C) was granted. Prayer clause (C) reads thus:

"(C) Pending the hearing and final disposal of this Writ Petition this Hon'ble High Court may be pleased to grant stay to the execution and operation of the said order dated 31.10.1992 passed by the Respondent No.3 in Revision application No.42 of 1992 preferred from the Order and Judgment dated 22.7.1992 passed by the Divisional Deputy Registrar, Co-op. Societies (Diary) Pune".

3. In pursuance of the interim order passed by this court it appears that the petitioners-society was allowed to function as a registered society. Mr.Kapse, learned counsel for the petitioners, however, has no instructions whether the petitioners-society is functional and is collecting milk. Keeping the overall facts and circumstances in view and considering that the Assistant Registrar after the order of remand passed by this court on 20.9.1991 has not decided the application filed by the petitioners-society afresh under sections 4 and 9 of the Act as directed in the said order and considering that, in view of interim order passed by this court which operates till this date, in my opinion the following order shall meet the ends of justice:

1. The orders passed by respondent nos.2 and 3 dated 22.7.1992 and 31.10.1992 respectively are quashed and set aside. Insofar as the order passed by respondent no.1 dated 19.2.1992 is concerned,

that would be subject to consideration of the petitioners' application under sections 4 and 9 of the Act afresh after giving an opportunity of being heard to the petitioners and all concerned parties. Respondent No.1 shall decide the application of the petitioners under sections 4 and 9 of the Act as expeditiously as possible and preferably within a period of 12 weeks from the date of receipt of this order. In view the peculiar facts and circumstances of this case it would be necessary that respondent no.1 which will be considering the petitioners application for registration afresh shall take into consideration its performance during all these years. Needless to mention that if respondent no.1 rejects the application of the petitioners under sections 4 and 9 of the Act the order dated 19.2.1992 shall automatically stand quashed and set aside.

2. If the order passed by the Assistant Registrar, as directed in this order on the application filed by the petitioners under sections 4 and 9 of the Act, is adverse to the petitioners same shall remain stayed for a period of two weeks from the date of its communication to the petitioners.

. The writ petition, accordingly, stands disposed of.

(D.B.Bhosale, J.)